IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE THE CHIEF JUSTICE MR.H.L.DATTU
&
THE HONOURABLE MR. JUSTICE HARUN-UL-RASHID

THURSDAY, THE 2ND AUGUST 2007 / 11TH SRAVANA 1929

ST.Rev..No. 261 of 2003

TA.746/2000 OF THE KERALA SALES TAX APPELLATE TRIBUNAL, ADDL.BENCH,ERNAKULAM
.....

PETITIONER/RESPONDENT:

M/S. HAWKINS COOKERS LTD.,
24/1464, BRISTOW ROAD, WILLINGDON ISLAND,
COCHIN-682 003, REPRESENTED BY POWER OF
ATTORNEY HOLDER, K.P.RAVEENDRAN.

BY ADV. SRI.E.K.NANDAKUMAR
SRI.A.K.JAYASANKAR NAMBIAR
SRI.ANIL D. NAIR
SMT.PRIYA MAHESH
SMT.PRIYA MANJOORAN

RESPONDENT/APPELLANT IN T.A.

STATE OF KERALA.

BY SR. GOVERNMENT PLEADER MR.MOHAMMED RAFIQ

THIS SALES TAX REVISION HAVING BEEN FINALLY HEARD ON 02/08/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

H.L.DATTU, C.J. & HARUN-UL-RASHID, J.

S.T.Rev.No.261 of 2003

Dated, this the 2nd day of August, 2007

ORDER

H.L.Dattu, C.J.

The assessee is a dealer in satlone coated cooking wares. The assessee has also registered under the provisions of the Kerala General Sales Tax Act, 1963 ('Act' for short). This tax revision petition pertains to the assessment year 1995-96.

(2) The assessing authority while computing the tax liability of the assessee has treated the satlone coated cooking wares as an item falling under Entry 104 of the First Schedule to the Act and accordingly has levied tax at the rate of 12.5%. The assessee was unsuccessful before the first appellate authority as well as before the tribunal.

(3) In this revision petition filed against the orders passed by the Tribunal in T.A.No.746 of 2000 dated 18th November, 2002, the assessee has raised the following questions of law for consideration and decision by this Court. They are as under:

> "i) Whether the Tribunal was correct in law and in facts in holding with reference to the goods sold by the assessee, that the satilon brand cookware can be treated as "home appliances" within the meaning of that phrase in entry 104 of the first schedule to the KGST Act and not as ordinary Aluminium house hold utensils?
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> ii) Whether the Tribunal was correct in law and on facts in finding that the Hawkins Satilon Cook were sold by the Petitioner was classifiable under entry 104 of the first schedule to the KGST Act especially when Non stick cookware was specifically included in entry 104 only with effect from 1-4-1999 and such amendments did not have any retrospective operations?"

(4) The questions of law raised by the assessee are no more res integra in view of the observations made by a Division Bench of this Court in

the case of M/s.Hawkins Cookers Ltd. v. State of Kerala (TRC Nos.562 and 563 of 2001 decided on18th December, 2001) . In the said decision the Court has stated as under:

> "2. In our view, the Tribunal has correctly held that the products manufactured by the petitioner were correctly classifiable under Entry 104 of the First Schedule to K.G.S.T. Act and chargeable to Sales Tax at 12.5%. We are not impressed with the contention of the learned counsel that "Satelon coated aluminium products" are identical with "aluminium household utensils made of aluminium and aluminium alloys". The Tribunal has correctly pointed out that coating of Satelon makes all the difference to the product. In trade parlance, no one would describe Satelon coated aluminium products as aluminium bousehold utensils. We are also in agreement with the view of the Tribunal that products manufactured by the petitioner are capable of being subsumed under the words "similar home appliances not coming under any other entry in this schedule or in the 5th schedule", which occur in Entry 104 of the First Schedule to K.G.S.T. Act.
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> 3. Finally, it is argued by the learned counsel that from 1-4-1997, Entry 104 has been amended to include 'non-stick cookware', which indicates that prior thereto 'non stick cookware' was not includable under Entry 104. we are unable to accept this contention. In our view, this amendment is only clarificatory in nature and does not mean that prior to 1-4-1997 petitioner's product were not includible in Entry 104."

(5) Following the observations made in the aforesaid decision, this revision petition requires to be rejected and it is accordingly rejected. The questions of law raised by the assessee are answered against the assessee and in favour of the Revenue.

Ordered accordingly.

(H.L.DATTU)
CHIEF JUSTICE

(HARUN-UL-RASHID)
JUDGE

vns